

PUBLIC UTILITIES COMMISSION

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SAN FRANCISCO, CA 94102-3298

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September 11, 1998

VIA UNITED PARCEL SERVICEMagalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554RECEIVED
SEP 14 1998
FCC MAIL ROOMRe: **California's Comments on Direct Case, Docket No. 98-79**

Dear Ms. Salas:

Enclosed please find an original and six copies of CALIFORNIA'S COMMENTS ON DIRECT CASE in the above-referenced docket.

Also enclosed is one additional copy of this document. Kindly file-stamp this copy and return it to me in the enclosed self-addressed envelope.

Thank you for your attention to this matter. If you have any questions, I can be reached at (415) 703-2047.

Sincerely,

Ellen S. LeVine
Attorney for the People of the
State of California and the Public
Utilities Commission of the
State of California

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

ORIGINAL

In the Matter of

GTE Telephone Operating Companies
GTOC FCC Tariff No. 1
GTOC Transmittal No. 1148.

CC Docket No. 98-06

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CALIFORNIA'S COMMENTS ON DIRECT CASE

The People of the State of California and the Public Utilities Commission of the State of California ("CPUC") respectfully submit these comments in response to the Order Designating Issues for Investigation in the above-referenced docket.

I. BACKGROUND

In this proceeding, GTE Service Corporation ("GTE") has filed an interstate access tariff for a high speed access connection, known as Asymmetrical Digital Subscriber Line ("ADSL") service, which interconnects an end user subscriber with an Internet Service Provider ("ISP"). According to GTE, the ADSL service will enable the simultaneous transmission of voice dialed calls and high speed data access to the Internet. GTE has chosen to file an interstate instead of an intrastate tariff for ADSL service based on GTE's belief that transmissions from an end user to an ISP, which then connects to the Internet, is one continuous transmission which is primarily interstate in nature.

In its request for comments, the Federal Communications Commission ("FCC") asks interested parties to address the jurisdictional question of whether a transmission between an end user and an ISP terminates at the ISP, or terminates at the Internet data bases accessed by the end user. In the former case, if the transmission between the end

user and ISP begins and ends in a given state, then the transmission is jurisdictionally intrastate.¹ In the latter case, the transmission is intrastate only if the data bases accessed by the end user are also intrastate.

II. PROCEEDINGS IN CALIFORNIA

In California, Pacific Bell, in contrast to GTE, has filed an intrastate tariff for ADSL service. The CPUC is currently reviewing that tariff.

The CPUC is also considering in its local competition proceeding the same jurisdictional question now before the FCC in this proceeding. In addition, the jurisdictional issue of whether reciprocal compensation is owed CLECs who terminate calls to ISPs is the subject of two pending complaints before the CPUC. MFS Intelenet v. Pacific Bell, C.97-09-032 and Pac-West Telecomm v. Pacific Bell, C.97-09-032.

Because of the pendency of cases before the CPUC in which the same or closely similar jurisdictional issues are raised, the CPUC is unable to comment before the FCC without prejudging these cases. The CPUC, however, anticipates issuing orders disposing of the jurisdictional issues in these proceedings no later than October 8, 1998. Upon

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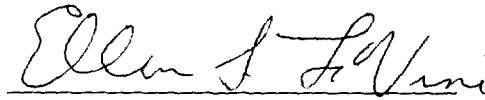
¹ To the extent that the DSL transmission service connects end users to non-ISPs located within the same state, such as a telecommuter accessing a corporate intranet service via DSL, then the transmission service would undeniably be intrastate.

issuance of such orders, the CPUC will immediately forward copies to the FCC for its consideration in this docket.

Respectfully submitted,

PETER ARTH, JR.
ELLEN S. LEVINE

By:

A handwritten signature in cursive script, appearing to read "Ellen S. Levine", written over a horizontal line.

ELLEN S. LEVINE

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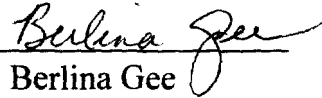
Attorneys for the People of the
State of California and the
Public Utilities Commission of the
State of California

September 11, 1998

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon all known parties of record by mailing, by first-class mail, postage prepaid, a copy thereof properly addressed to each party.

Dated at San Francisco, California, this 11th day of September, 1998.



Berlina Gee